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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/419,263	10/11/99	SHEI	S DUKE-7227US

QM02/0928
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EXAMINER

ALI, M

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 09/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/419,263

Applicant(s)

SHEI ET AL.

Examiner

Mohammad M Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-20 and 23 is/are rejected.
- 7) ☐ Claim(s) 15, 16, 21 and 22 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Specification

The disclosure is objected to because of the following informalities: Page 7, note line 17 the numeral "16" should be changed to - -66- -. On page 8, note line 13, the numeral "76" should be changed to - -100- -. On page 9, note line 1, the numeral "80" should be changed to - -112- -. On page 10, note line 1, the numeral "78" should be changed to - -18- -. On claim 10, note line 1, the word "fo" should be changed to - -of- -. On claim 11, note line 1, the word "merchandise" should be changed to - -merchandise- -.

Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Pullens. In Fig. 1 and 2, Pullens discloses a portable battery operated hot-cold storage unit comprising: first walls 28, located around a first compartment; second walls 18, enclosing a second compartment, at least one of the second walls 34, being movable with respect to others of the second walls to provide access to the second compartment; a refrigeration unit 62, for cooling the first compartment; and a heating unit 76, for heating the air that is in the second compartment.

Claim Rejections - 35 USC § 103

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens.

Pullens discloses the claimed invention except for the first and second compartments. The selection of the compartment one above the other is a matter of obvious choice in design because there is no criticality for the claimed arrangement.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of his own such that a counter with a counter top and other desired structure could be made with a provision to locate the second compartment above the first compartment for food display case.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Behr. Pullens discloses the claimed invention except for the first compartment opening upwardly toward the second compartment and accessible below the shelf at the bottom of the second compartment. Behr teaches the use of accessing the shelf from the bottom. See specially Fig.1, numeral 19,17 and 14a of Behr.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Behr such that the shelf used on the upper compartment could be accessible below the shelf at the bottom of the second compartment.

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Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Behr as applied to claim 5 above, and further in view of Beitner.

Pullens in view of Behr discloses the claimed invention including transparent panels, note numerals 17 and 14 in Fig. 1 of U.S. Patent # 5,743,098. However they fail to teach the use of the posts with the side walls. Beitner teaches the use of the posts with side walls in the U.S. Patent # 4,704,870 in Fig.1, numeral 20.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Beitner such that the posts could be included with the side walls of the desired walls.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) over Pullens in view of Behr and Beitner as applied to claim 6 above, and further in view of Filipowski.

Pullens discloses the claimed invention except for the housing with a fan for heating air circulation in the heating compartment. Filipowski teaches the use of housing 20H, fan 20 and heating element 19 for hot air circulation in U.S. Patent # 4,884,626 in Fig. 2.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Filipowski such that a housing with a fan and a heating element could be used in the heating compartment for hot air circulation.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Filipowski.

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Pullens discloses the claimed invention except for the housing that encloses a plenum including one intake opening and one discharge opening, a fan, and a heating element for hot air circulation. Filipowski teaches the use of the housing 20H having, a plenum, intake and discharge openings including a fan 20 and a heating element 19 as mentioned in Fig.2 of Filipowski.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Filipowski such that a housing enclosing a plenum including intake and discharge openings, a fan and a heating unit could be used in the heating compartment for hot air circulation.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Jarman et al.

Pullens discloses the claimed invention except for the cold pan. Jarman teaches the use of the cold pan 50 having vertical or side walls and bottom walls that surround a cold compartment as mentioned in Fig.1 of U.S. Patent # 5,247,807.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Jarman such that a desired cold pan could be used for a merchandiser for displaying foods.

Claim13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Jarman as applied to claim 11 above, and further in view of Behr.

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Pullens discloses the claimed invention except for the transparent panels. Behr teaches the use of transparent panels in numerals 17 and 14 in Fig. 1 of U.S. Patent # 5,743,098.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Behr such that the transparent panels could be used for a merchandiser for displaying foods.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Jarman and Behr as applied to claim 11 above, and further in view of Beitner.

Pullens discloses the claimed invention except for the posts with the side walls. Beitner teaches the use of the posts with side walls in the U.S. Patent # 4,704,870 in Fig.1, numeral 20.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Jarman, Behr and Beitner such that the posts could be included with the side walls of the desired walls.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Jarman as applied to claim 11 above, and further in view of Filipowski.

Pullens discloses the claimed invention except for the housing that encloses a plenum including one intake opening and one discharge opening, a fan, and a heating element for hot air circulation. Filipowski teaches the use of the housing 20H having, a plenum, intake and discharge opening including a fan 20 and a heating element 19 as

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mentioned in Fig. 2 of U.S. Patent # 4,886,626. It is also mentioned here that the selecting the location of intake and discharge openings for worm air circulation is an obvious choice only.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Filipowski such that a housing enclosing a plenum including intake and discharge openings, a fan and a heating unit could be used in the heating compartment for hot air circulation.

Claims 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Geisen et al.

Pullens discloses the claimed invention except for the counter top. Geisen teaches the use of a counter having a counter top provided with an opening, a merchandiser supported on the counter for displaying foods. Fig. 1-5, of U.S. Patent # Des. 352,620.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Geisen such that a counter with a counter top and other desired structure could be used with the food display case.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Geisen as applied to claim 18 and further in view of Behr.

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Pullens discloses the claimed invention except for the transparent side walls of the closure assembly. Behr teaches the use of the transparent side walls 17 and 14, in Fig. 1 of U.S. Patent # 5,743,098.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Geisen as applied to claim 18 and further in view of Behr such that the transparent walls could be used with the closure assembly.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullens in view of Geisen and Behr as applied to claim 18 above, and further in view of Beitner.

Pullens discloses the claimed invention except for the posts with the side walls. Beitner teaches the use of the posts with side walls in the U.S. Patent # 4,704,870 in Fig.1, numeral 20.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify the hot-cold storage unit of Pullens in view of Geisen, Behr and Beitner such that the posts could be included with the side walls of the desired walls of the hot-cold food storage unit.

Allowable Subject Matter

Claims 15, 16, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad M. Ali, whose telephone number is 703-308-5032. The examiner can normally be reached from 7:00am to 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached at 703-308-2111. The fax number for the organization where this application or proceeding is assigned is 703-308-7764 for regular communications and after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



**CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
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Sep. 25, 2000